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5 TN REGULATORY AUTHORITY
DOCKET ROOM
July 25, 2005

Chairman Pat Miller
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

Re: United Telephone-Southeast, Inc.'s Response to the July 18, 2005 Filing of The Information Bureau, Inc.

Dear Chairman Miller:

Enclosed for filing are the original and thirteen (13) copies of United Telephone-Southeast, Inc.'s Response to the July 18, 2005 Filing of The Information Bureau, Inc.

Please do not hesitate to contact me if you have any questions concerning this filing.

Sincerely yours,

A handwritten signature in cursive script that reads "Edward Phillips", followed by a horizontal line.

Edward Phillips

HEP:sm

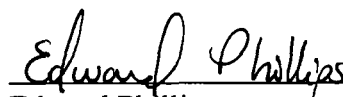
Enclosures

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Response of United Telephone-Southeast, Inc. upon Kirti Bajwa by depositing a copy in the United States Mail, first-class postage prepaid.

This 25th day of July, 2005.

Kirti S. Bajwa, President
The Information Bureau, Inc.
113 S. Church Street
P. O. Box 49
Mountain City, TN 37683

A handwritten signature in cursive script, reading "Edward Phillips", is written over a horizontal line.

Edward Phillips
United Telephone-Southeast, Inc.

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

In the Matter of:)	
)	
Petition by United Telephone-Southeast, Inc.)	Docket No. 05-00152
for Declaratory Ruling by the Tennessee)	
Regulatory Authority)	
)	

Response of United Telephone-Southeast, Inc. to The Information Bureau's
Response of July 12, 2005 and Modified Response of July 18, 2005

United Telephone-Southeast, Inc. ("Sprint") through its undersigned counsel responds to The Information Bureau's ("TIB's") Response to Sprint's Motion to Consolidate Docket No. 05-00156 with Docket No. 05-00152 dated July 11, 2005 and TIB's Modified Response in letter form dated July 17, 2005.¹

Sprint is seeking to consolidate these two dockets because the issues in both dockets arise from the same legal issue. Sprint is requesting in Docket 05-00152 that the Tennessee Regulatory Authority ("Authority") issue a declaratory ruling finding that Sprint is not required to provide DS1 switching as an unbundled network element at TELRIC rates pursuant to paragraph 451 of the Federal Communications Commission's ("FCC's") Triennial Review

¹ Although the responses filed by TIB are dated July 11, 2005 and July 17, 2005, these documents were not filed with the Authority until the next business day, and therefore, the title of Sprint's response reflects the official filing dates. While Sprint understands that TIB is not represented by counsel, and that some leeway may be given on procedural issues, Sprint does note that TIB has failed to serve any of its filings on Sprint. A copy of TIB's Response dated July 11, 2005 was provided to Sprint's counsel by the Authority's General Counsel at an Authority Agenda Conference held on July 11, 2005, and TIB's Modified Response was obtained by Sprint's counsel through the Authority's web site. This is not proper service and does not comply with the Tenn. Comp. R. & Regs. § 1220-1-1-03(2) (Sept. 2000).

Order² and 47 C.F.R. § 319(d)(3). In Docket No. 05-00156, TIB is seeking a ruling that Sprint is required to continue to provide DS1 switching.³

TIB claims that the issue of whether ILECs are required to provide DS1 switching, thus UNE-P that includes DS1 switching, is pending before the federal courts. TIB also claims that the provision of DS1 switching is subject to a transition period until March 11, 2006. TIB's claims are incorrect. The FCC determined in the TRO that CLECs were not impaired without access to enterprise switching, which is switching used for customers served by DS1 capacity or above loops. *See* TRO at paragraph 451. In the TRO, the FCC promulgated rule 47 C.F.R. 51.319(d)(3) that states:

An incumbent LEC is not required to provide access to local circuit switching on an unbundled basis to requesting telecommunications carriers for the purpose of serving end-user customers using DS1 capacity and above loops except where the state commission petitions this Commission for waiver of this finding in accordance with the conditions set forth in paragraph (d)(3)(i) of this section and the Commission grants such waiver.

A state commission was required to petition the FCC to rebut the national finding that CLEC's were not impaired without access to enterprise switching within 90 days of the effective date of the TRO. *See* 47 C.F.R. 51.319(d)(5)(i). That time period has long since passed and the Authority did not petition the FCC to rebut the presumption.

On appeal the D.C. Circuit did not address the states' role in rebutting the presumption because no party challenged that portion of the FCC's ruling.⁴ Therefore, as acknowledged by

² *In the Matter of the Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Docket No. CC 01-338, rel. August 21, 2003 ("Triennial Review Order" or "TRO")

³ UNE-P is the combination of the Network Interface Device, Loop, Local Switch Port, Local Circuit Switching, Shared Transport, and Local Tandem Switching, thus DS1 and above capacity UNE-P lines by definition, require access to unbundled local circuit switching

⁴ *United States Telecom Ass'n v. FCC*, 359 F.3d 554 at 588 (D.C. Cir. 2004) ("USTA II")

the FCC in the Triennial Review Remand Order⁵, the obligations as to “enterprise switching,” that is, switching for customers served by DS1 or above capacity loops, were not altered by USTA II or the TRRO.⁶ Further, a review of Exhibit B of the TRRO demonstrates that 47 C.F.R. 51.319(d)(3) was not modified by the TRRO.⁷ The decision that local circuit switching for customers served using DS1 and above capacity loops is a final ruling and not subject to further appeal.

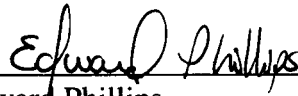
TIB’s response does not allege that the issues raised by both parties arise from different legal issues, only that the parties disagree on the conclusion as to the rights and obligations of the parties related to the continued provision of DS1 switching by Sprint. The parties and the Authority will need to review the same FCC orders and FCC rules to resolve the two Dockets. Consolidating the requests will not preclude either party from setting forth their positions and legal arguments but will promote the efficient use of resources of the parties and the Authority.

⁵ *In the Matter of Unbundled Access to Network Elements and Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, WC Docket 04-313 and CC Docket 01-338, rel February 4, 2005 (“Triennial Review Remand Order” or “TRRO”)

⁶ TRRO at paragraph 201

⁷ TRRO at page 148

Respectfully submitted this, the 25th day of July, 2005.



Edward Phillips

Attorney

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